IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 865 of 2000

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SANJAY SAVDAS KARA VADARA

Versus

STATE OF GUJARAT

Appearance:

MS YAMINI J DESAI for Petitioners

MR KP RAVAL, APP, for Respondent No. 1

MR DN PANDYA for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 14/03/2000

ORAL JUDGEMENT

1. This is an application under section 482 of the Criminal procedure Code at the instance of the original accused praying that the criminal complaint filed by the opponent no.2-original complainant and registered as Criminal Case No.695/99 be quashed and set aside, mainly

on the lack of total and basic territorial jurisdiction. I have heard the learned counsel for the respective parties.

2. The complainant is the wife who has filed a complaint alleging commission of offences by the accused under section 403, 406, etc. of IPC, alleging that her personal clothes, personal jewelry and other gift articles given to her by her parents at the time of her marriage have been taken away by accused no.1 who is her husband and other accused who are members of the husband's family.

3. A plain reading of the complaint indicates that the complainant had, after marriage brought her personal effects, personal ornaments, her Stridhan and articles gifted to her by her parents to the house of opponent no.1, and the common residence of her husband's relatives. Admittedly even according to the complainant, her husband and her husband's relatives resided at Medpara, Taluka Besan, District Junagadh. Her complaint then asserts that some time after her marriage her husband found faults with her and then threw her out of her matrimonial home. It is, therefore, obvious that if any offence took place, even according to the complaint and the complainant, it took place at the residence of the accused which is in District Junagadh. However, the complaint has been filed, and taken cognisance of and process has been issued by the Judicial Magistrate (First Class), Porbandar. Obviously there is a patent lack of jurisdiction on the part of this court.

4. Learned counsel for the opponent is unable to sustain issuance of process by the said court.

5. On the facts of the case, therefore, this complaint and the process issued thereon by the judicial Magistrate (First Class), Porbandar is quashed and set aside. Accordingly rule is made absolute.

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